

REMARKS

Claims 1-38 were pending prior to this amendment.

In the June 22, 2007 non-final Official Action, the examiner rejected then pending claim 1-38 under 35 USC 102(b) as anticipated by German Reference DE 100 17 438. The examiner also rejected claims 1-38 under 35 USC 102(b) as anticipated by US Patent no. 5,024,355 to Jouillat. Further, claims 1-38 were rejected under 35 USC 102(e) as anticipated by US 7,008,433 to Voellmicke, et al.

In this amendment, claims 1, 20 and 35 have been amended, claims 19, 32, 33 and 34 have been cancelled, and new claims 39-44 have been submitted for the first time. Claims 20 and 35 have been made dependent on claims 1 in light of the amendment thereof and cancellation of claims 19 and 33.

Amended claim 1 combines elements previously recited in claims 19 and 32-34, and further qualifies that the result of each cycle of movement of the boundary wall structure is "when the fluid product is stored in the storage chamber".

The Examiner had raised novelty objections to the previous claims based on DE 100 17 438 (DE '438), US 5,024,355 (JOUILLAT), US 7,008,433 (VOELLMICKE) and US 4,077,494 (SPAUDE).

None of these references discloses or suggests the dispenser of claim 1 as now presented.

With reference to JOUILLAT, the dispenser of claim 1 has an outlet orifice through which fluid product is dispensable, a storage chamber for storing a fluid product, a metering chamber which has a boundary wall structure which is cyclically movable between first and second configurations and a transfer

opening through which fluid product is transferable between the storage and metering chambers.

When fluid product is present in the storage chamber, each cycle of movement of the boundary wall structure results in a metered volume of the fluid product being transferred from the storage chamber to the metering chamber and then dispensed from the outlet orifice. In other words, *the metered volume dispensed in each cycle is transferred from the storage chamber to the metering chamber via the transfer opening earlier in the same cycle.*

This is clearly not the case in JOUILLAT. More particularly, in a cycle of movement of the rod-piston (3) in the pump chamber (11) not all of the volume of fluid transferred into the pump chamber (11) during a cycle is dispensed from the dispensing orifice (24) in that same cycle. Some of the volume dispensed in each cycle includes the volume of fluid that is pending in the dispensing channel (34) of the rod (32) from the previous cycle.

There is also no suggestion or motivation to alter JOUILLAT so that on a single cycle of movement of the rod-piston (3) in the pump chamber (11) the metered volume transferred into the pump chamber is then dispensed through the dispensing orifice (24).

With regard to DE '438, VOELLMICKE and SPAUDE, the dispenser of claim 1 requires the transfer opening to be *closed* in the second configuration of the boundary wall structure. The dispenser of claim 1 also has an actuation mechanism to cause a cycle of movement of the boundary wall structure. Notably, the actuation mechanism has *a biasing structure which biases the boundary wall structure to the second configuration* so that the boundary wall structure is disposed in the second configuration at the end of each cycle of movement caused by the actuation mechanism. *Thus, the transfer opening is closed in the **rest state** of the dispenser.*

In the dispenser of DE '438, VOELLMICKE and SPAUDE, however, there is no biasing structure which acts so that a transfer opening between storage and metering chambers is closed in the rest state of the dispenser. Moreover, none of these references provide any suggestion to so configure the respective dispensers.

For the reasons outlined above, claim 1 is neither anticipated nor obvious over each of DE '438, JOUILLAT, VOELLMICKE and SPAUDE. As all the other claims, depend from claim 1. either directly or indirectly, they should also be considered novel and non-obvious for the same reasons as claim 1.

CONCLUSION

In light of the amendments and comments made herein, it is believed that all issues raised by the examiner to date have been appropriately addressed. It is also respectfully asserted that the claims are now in a condition for allowance. Therefore, Applicant requests that a timely Notice of Allowance be issued in this case.

If any matters exist that preclude issuance of a Notice of Allowance, the examiner is requested to contact the applicant's representative at the number indicated below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sections 1.16 and/or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,

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